

REMARKS

Reconsideration and allowance of the captioned application in view of the foregoing amendments and the remarks which follow are courteously requested.

This response is being timely filed. A Final Rejection was mailed on February 21, 2002. Within the time for response to this Final Rejection, a Notice of Appeal was filed on April 30, 2002. Again, within the time that a Brief on Appeal is due for this Notice of Appeal, the present response which is a Preliminary Amendment is being made. This Preliminary Amendment is accompanied by a Request for Continued Examination under 37 CFR §1.114. Since this response is being made on June 24, 2002, it is timely. The applicants do not acquiesce in the Final Rejection of February 21, 2002.

Claims 1-12 and 13 and 14 have been rejected as being unpatentable over Lim or Anderson under 35 USC §103(a). It is alleged that Lim teaches a hair dyeing and bleaching composition which can include hydrogen peroxide, ammonium peroxide as a buffering agent, cholesterol, and a pH ranging from 5 to 11. Lim fails to teach bleaching compositions, but instead only teaches compositions having oxidative hair dyes in combination with hydrogen peroxide. The same is true of Anderson, which only teaches hair dye compositions.

Therefore, neither Lim nor Anderson renders obvious claims 1-6, 9 and 10 which relate only to bleaching compositions. Bleaching compositions decolorize the melanin pigment in hair. Bleaching compositions do not add dye to hair. Claims 13 and 14 are also bleaching compositions and not hair dye compositions. No one of claims 1-6, 9 and 10, and 13 and 14 are rendered obvious by Lim or Anderson.

Moreover, present claims 7, 11 and 12 which relate to non-oxidative hair dye compositions are not rendered obvious by either Lim or Anderson which teaches

oxidative hair dye compositions. In fact Lim and Anderson fail to disclose any non-oxidative hair dyes, and it would not be obvious to one of ordinary skill in the art to remove the oxidative dyes from the compositions of Lim and Anderson.

Moreover, in the claims as amended, those compositions of the present invention which do contain oxidative hair dyes recite a specific selection of pH range of greater than or equal to 10.3. Support for this amendment may be found at page 6, line 23 of the specification. Such a selection of pH from the broad range of pH 5-11 set forth in Lim and Anderson would not have been within the skill of one of ordinary skill in the art.

The narrow pH range of 8-10 set forth in Lim and Anderson suggest compositions of pH below 10.3, which is the lowest pH in the claims as amended.

In addition, one of ordinary skill in the art would not have selected cholesterol from among the list of lanolin derivatives, cholesterol and pantothenic acid which is set forth in Lim and Anderson. That is to say, there is no motivation to make this specific selection.

It is further noted that the preferred pH range in both Lim and Anderson has a maximum pH value of 10.0. This falls outside the scope of the oxidative hair dye compositions in the claims as amended which now have a pH of greater than or equal to 10.3. Moreover, since the person of ordinary skill in the art would have been aware prior to the present invention that a high pH composition can be generally damaging to the hair, such skilled person in the art would have used a composition with a pH which is as low as possible. Therefore, there would have been a good technical reason for the person of ordinary skill in the art to work below the pH range of 10.3 in the oxidative hair claims of the present claims as amended.

Lim and Anderson also fail to offer any guidance to one skilled in the art as to how to avoid possible hair damage or repair possible hair damage. Lim and Anderson mention cholesterol in a mere laundry list of compositions that can be added to the hair.

There is no indication from either Lim or Anderson taken alone or together that the use of cholesterol together with the use of a composition whose pH is equal to or greater than 10.3 would avoid damaging effects to hair or even improve damaged hair.

Upon reading Lim and Anderson, one skilled in the art would reduce the pH values of any compositions employed in order to minimize the possibility of damage to the hair.

For the foregoing reasons and in view of the above amendments, it is respectfully submitted that the rejection of the claims over Lim and Anderson has been obviated, and withdrawal of said rejection is respectfully requested.

Since all of the claims are in proper form and have been patentably distinguished over the publications of record, an early Notification of Allowance is respectfully requested.

Attached hereto is a marked-up version of the changes made to the specification and claims by the current amendment. The attached page is captioned "Version with markings to show changes made".

If a telephone conversation would be of assistance in advancing prosecution of the subject application, applicants' undersigned attorney invites the Examiner to telephone him at the number provided.

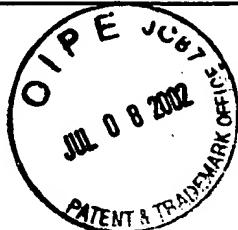
Respectfully submitted,


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MB:sc
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VERSION WITH MARKINGS TO SHOW CHANGES MADE

In the Claims



Claim 1 has been amended as follows:

1. (Amended) A hair bleaching composition comprising:
 - (a) a peroxygen compound;
 - (b) a buffering agent; and
 - (c) cholesterol and/or derivatives thereof or mixtures thereof;
wherein the pH of the composition is greater than or equal to pH 10.3.
~~characterised in that the pH of the composition is greater than pH 10.~~

Claim 2 has been amended as follows:

2. (Twice amended) A hair bleaching composition according to claim 1,
wherein the pH of the composition is greater than or equal to pH10_10.5.

Claim 9 has been amended as follows:

9. (Amended) A hair bleaching kit comprising:
 - (a) a first package containing a peroxygen compound;
 - (b) a second package containing a buffering agent;
 - (c) cholesterol and/or derivatives thereof or mixtures thereof in the first and/or second package and/or in a third package;
wherein the peroxygen compound, buffering agent and cholesterol and/or derivatives thereof or mixtures thereof form, when mixed, a hair bleaching

composition according to claim 1 having a pH greater than or equal to 10.3.

~~characterised in that the peroxygen compound, buffering agent and cholesterol and/or derivatives thereof or mixtures thereof form, when mixed, a hair bleaching composition according to claim 1 having a pH greater than 10.~~

Claim 11 has been amended as follows:

11. (Amended) A hair colouring kit comprising:
- (a) a first package containing a water soluble peroxygen compound;
 - (b) a second package containing a buffering agent;
 - (c) cholesterol and/or derivatives thereof or mixtures thereof in the first and/or second package and/or in a third package;
 - (d) a hair colouring agent in the second package and/or third package and/or a fourth package;
- characterised in that the water soluble peroxygen compound, buffering agent, hair colouring agent and cholesterol and/or derivatives thereof or mixtures thereof form, when mixed, a hair colouring composition according to claim 711 having a pH greater than 10.3.

New claim 15 has been added.

New claim 16 has been added.